

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1254

Citations Affected: IC 9-13-2; IC 9-18-2-43; IC 9-21; IC 9-22-5-15; IC 9-24-6; IC 9-27-4-4; IC 9-29-5-13; IC 32-33-10.

Synopsis: Various motor vehicle matters. Allows the bureau of motor vehicles (bureau) to adopt rules to comply with federal requirements concerning background checks for an individual seeking a hazardous materials endorsement for a commercial driver's license. Specifies that a learner's permit holder who: (1) is less than 18 years old and holds a validated permit; or (2) is enrolled in an approved driver's education course; may drive a motor vehicle when the seat beside the driver's seat is occupied by a stepparent of the permit holder who holds a valid operator's license. Permits a licensed commercial driver training school to conduct classroom training in a county outside the county in which the school is located. Revises the definition of approved motorcycle driver education and training course to include a course offered by a new motorcycle dealer. Provides that certain motor vehicles may be operated and registered as farm trucks, farm trailers, or farm semitrailers and tractors if not used for certain commercial enterprises. Makes it a Class C infraction (and a Class B infraction for a second offense within three years) to operate or own a farm truck, farm trailer, or farm semitrailer and tractor if the vehicle is used for certain commercial enterprises. Requires the bureau to adopt rules to identify and define "farm truck", "farm trailer", and "farm semitrailer and tractor". Prohibits a law enforcement officer from impounding certain farm products when a vehicle is discovered in violation of registration requirements and removes the penalty against an officer for a reckless violation of this provision. Provides that a person may not use a device to alter the lighting sequence of a traffic control signal, unless the person is a public safety officer responding to an emergency or an authorized technician who is installing, testing, or repairing a traffic control signal. Prohibits the sale of such devices to a nongovernmental entity. Provides that a person who illegally sells or uses a device to alter the sequence of a traffic control signal commits a Class A misdemeanor. Allows an unpaid provider of towing services to obtain a mechanic's lien on a towed vehicle and sell the vehicle. **(This conference committee report: (1) inserts the contents of the January 23, 2004, version of SB 395, concerning motorcycle driver education; (2) inserts language from the February 5, 2004, version of HB 1359, concerning the operation of farm trucks, farm**

tractors, and farm semitrailers and tractors; (3) inserts the contents of the January 30, 2004, version of HB 1284, concerning electronic devices and road signals; and (4) inserts certain portions of the February 17, 2004, version of SB 342, concerning liens for towed vehicles.)

Effective: Upon passage; July 1, 2004.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1254 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 9-13-2-1.1 IS ADDED TO THE INDIANA CODE
- 3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2004]: **Sec. 1.1. "Act", for purposes of IC 9-24-6.5, has the**
- 5 **meaning set forth in IC 9-24-6.5-1.**
- 6 SECTION 2. IC 9-13-2-1.5 IS ADDED TO THE INDIANA CODE
- 7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 8 1, 2004]: **Sec. 1.5. "Administration", for purposes of IC 9-24-6.5,**
- 9 **has the meaning set forth in IC 9-24-6.5-2.**
- 10 SECTION 3. IC 9-24-6-11.5 IS ADDED TO THE INDIANA CODE
- 11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 12 1, 2004]: **Sec. 11.5. (a) This section applies if the United States**
- 13 **Department of Homeland Security, Transportation Security**
- 14 **Administration adopts regulations concerning disqualifying**
- 15 **offenses.**
- 16 **(b) The bureau shall revoke the hazardous materials**
- 17 **endorsement of a driver who:**

(1) receives a judgment or conviction for a disqualifying offense (as defined in the regulations described in subsection (a)) immediately upon receiving notice of the judgment or conviction; or

(2) is determined by the United States Department of Homeland Security, Transportation Security Administration to be a potential security threat;

and shall give notice to the driver that the endorsement has been revoked and of the procedure by which the driver may appeal the revocation.

(c) The revocation of the hazardous material endorsement of a driver revocation under subsection (b) is for the period set forth under the regulations described in subsection (a).

SECTION 4. IC 9-24-6-12, AS AMENDED BY P.L.123-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A driver who:

(1) is:

(A) convicted of an offense described in section 8(1) through 8(4) or 8(6) of this chapter; or

(B) found to have violated section 8(7) of this chapter; and

(2) has been previously convicted in a separate incident of any offense described in section 8(1) through 8(4) or 8(6) of this chapter;

is disqualified for life from driving a commercial motor vehicle.

(b) A driver who applies for a hazardous materials endorsement and has been convicted of:

(1) a felony under Indiana law that results in serious bodily injury or death to another person; or

(2) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is disqualified for life from holding a hazardous materials endorsement.

(c) The hazardous materials endorsement of a driver who holds a hazardous materials endorsement and is convicted of a:

(1) felony under Indiana law that results in serious bodily injury or death to another person; or

(2) crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is revoked upon conviction, and the driver is disqualified for life from holding a hazardous materials endorsement.

(d) The hazardous materials endorsement of a driver may be revoked and the driver may be disqualified from holding a hazardous materials endorsement if the revocation and disqualification are required under regulations adopted by the United States Department of Homeland Security, Transportation Security Administration.

SECTION 5. IC 9-24-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1,

2004]:

Chapter 6.5. Hazardous Material Endorsement Application and Renewal

Sec. 1. As used in this chapter, "act" refers to the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, Pub. L. 107-56, 115 Stat. 272 (2001).

Sec. 2. As used in this chapter, "administration" refers to the United States Department of Homeland Security, Transportation Security Administration.

Sec. 3. The bureau may adopt rules and policies necessary to fully implement the requirements of the act and the regulations adopted to implement the act.

Sec. 4. The bureau shall forward the information provided by an applicant for a hazardous material endorsement to the administration or another agency designated to receive the information if the bureau is required to forward the information under regulations adopted to implement the act.

Sec. 5. The bureau may:

- (1) determine the cost to the state of procedures required to comply with regulations adopted to implement the act; and**
- (2) charge a fee to applicants that is sufficient to offset the cost determined under subdivision (1).**

Sec. 6. (a) The hazardous materials endorsement of a driver who applies for renewal of the endorsement may remain valid after the date on which the endorsement would otherwise expire if both of the following conditions are met:

(1) The application for renewal was received by the bureau at least ninety (90) days before the date on which the endorsement expires.

(2) On the date on which the endorsement expires, the bureau has not yet received the results of a background check conducted by the administration or another agency designated to conduct the background check.

(b) Except as provided in subsection (c), an extension under subsection (a) is valid for ninety (90) days after the date on which the endorsement would otherwise expire.

(c) Notwithstanding subsection (b), if the bureau receives information from the administration or another agency designated to conduct a background check that requires the bureau to revoke the hazardous materials endorsement of a driver, the bureau shall revoke the endorsement immediately upon receipt of the information.

(d) An extension under subsection (a) may be renewed until:

- (1) the bureau receives the results of a background check conducted by the administration or another agency designated to conduct the background check; or**

(2) further extensions are barred under regulations adopted to implement the act.

Sec. 7. An applicant whose application for a hazardous materials endorsement is denied or whose hazardous materials endorsement is revoked under IC 9-24-6-11.5 may appeal the denial or revocation under IC 4-21.5 or, if other procedures are adopted by the administration or another agency of the United States, under the other procedures.

SECTION 6. IC 9-24-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. A learner's permit authorizes the permit holder to operate a motor vehicle, except a motorcycle, upon a public highway under the following conditions:

(1) While the holder is participating in practice driving in an approved driver education course and is accompanied by a certified driver education instructor in the front seat of an automobile equipped with dual controls.

(2) If the learner's permit has been validated and the holder is less than eighteen (18) years of age, the holder may participate in practice driving if the seat beside the holder is occupied by a guardian, **stepparent**, or relative of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(3) If the learner's permit has been validated and the holder is at least eighteen (18) years of age, the holder may participate in practice driving if accompanied in the vehicle by an individual who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(4) While:

(A) the holder is enrolled in an approved driver education course;

(B) the holder is participating in practice driving after having commenced an approved driver education course; and

(C) the seat beside the holder is occupied by a parent, **stepparent**, or guardian of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

SECTION 7. IC 9-27-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To establish or operate a commercial driver training school, the school must obtain a license from the bureau in the manner and form prescribed by the bureau.

(b) **Subject to subsection (c)**, the bureau shall adopt rules under IC 4-22-2 that state the requirements for obtaining a school license, including the following:

(1) Location of the school.

(2) Equipment required.

(3) Courses of instruction.

(4) Instructors.

(5) Previous records of the school and instructors.

(6) Financial statements.

(7) Schedule of fees and charges.

(8) Character and reputation of the operators and instructors.

(9) Insurance in the amount and with the provisions the bureau

considers necessary to adequately protect the interests of the public.

(10) Other matters the bureau prescribes for the protection of the public.

(c) The rules adopted under subsection (b) must permit a licensed school to conduct classroom training in a county outside the county where the school is located to the students of:

(1) a school corporation (as defined in IC 36-1-2-17);

(2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-1-1-6; or

(3) a nonpublic secondary school recognized under IC 20-1-1-6.2;

if the governing body of the school corporation or the nonpublic secondary school approves the delivery of the training to its students.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-27-4-4, as amended by this act, the bureau of motor vehicles shall carry out the duties imposed upon it under IC 9-27-4-4, as amended by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-27-4-4, as amended by this act.

(2) December 31, 2004.

SECTION 9. IC 9-13-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Approved motorcycle driver education and training course" means:

(1) a course offered by a public or private secondary school, **a new motorcycle dealer**, or other driver education school offering motorcycle driver training as developed and approved by the superintendent of public instruction and the bureau; or

(2) a course that is offered by a commercial driving school or new motorcycle dealer and that is approved by the bureau.

SECTION 10. IC 9-18-2-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 43. (a) Notwithstanding any law to the contrary but except as provided in subsection (b), a law enforcement officer authorized to enforce motor vehicle laws who discovers a vehicle required to be registered under this article that does not have the proper certificate of registration or license plate:

(1) shall take the vehicle into the officer's custody; and

(2) may cause the vehicle to be taken to and stored in a suitable place until:

(A) the legal owner of the vehicle can be found; or

(B) the proper certificate of registration and license plates have been procured.

(b) A law enforcement officer who discovers a vehicle in violation of the registration provisions of this article ~~has discretion in the impoundment of~~ **may not impound** any of the following:

(1) Perishable commodities.

(2) Livestock.

~~(c) A person who recklessly violates this section commits a Class A misdemeanor.~~

SECTION 11. IC 9-21-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 21. Farm Vehicles Involved in Commercial Enterprises

Sec. 1. A motor vehicle, trailer, or semitrailer and tractor may be operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor if the vehicle meets the specifications set forth in IC 9-29-5-13(b).

Sec. 2. A farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter may not be operated:

(1) part time or incidentally in the conduct of a commercial enterprise; or

(2) for the transportation of farm products after the commodities have entered the channels of commerce.

Sec. 3. A farm truck described in section 1 of this chapter may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.

Sec. 4. If the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter begins to operate, or permits the farm truck, farm trailer, or farm semitrailer and tractor to be operated:

(1) in the conduct of a commercial enterprise; or

(2) for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under IC 9-29-5-13 has been paid;

the owner shall pay the amount computed under IC 9-29-5-13.5 due for the remainder of the registration year for the license fee.

Sec. 5. In addition to the penalty provided in section 7 of this chapter, a person that operates a vehicle, or allows a vehicle that the person owns to be operated when the vehicle is:

(1) registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor; and

(2) operated as set forth in section 4 of this chapter;

commits a Class C infraction. However, the offense is a Class B infraction if, within the three (3) years preceding the commission of the offense, the person had a prior unrelated judgment under this section.

Sec. 6. For purposes of this chapter, the operation of a vehicle in violation of section 4 of this chapter is a continuing offense and the venue for prosecution lies in a county in which the unlawful operation occurred. However, a:

(1) judgment against; or

(2) finding by the court for;
the owner or operator bars a prosecution in another county.

Sec. 7. (a) A law enforcement officer (as defined in IC 9-13-2-92(1), IC 9-13-2-92(2), or IC 9-13-2-92(3)) who discovers a vehicle registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor that is being operated as set forth in section 4 of this chapter:

(1) may take the vehicle into the officer's custody; and

(2) may cause the vehicle to be taken to and stored in a suitable place until:

(A) the legal owner of the vehicle can be found; or

(B) the proper certificate of registration and license plates have been procured and the amount computed under IC 9-29-5-13.5 has been paid.

(b) A law enforcement officer described in subsection (a) who discovers a vehicle in violation of the registration provisions of this chapter may not impound any of the following:

(1) Perishable commodities.

(2) Livestock.

SECTION 12. IC 9-29-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) This section does not apply to a vehicle or person exempt from registration under IC 9-18.

(b) The license fee for a motor vehicle, trailer, or semitrailer and tractor operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor:

(1) having a declared gross weight of at least eleven thousand (11,000) pounds; and

(2) used by the owner or guest occupant in connection with agricultural pursuits usual and normal to the user's farming operation;

is fifty percent (50%) of the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight.

~~(c) A farm truck, farm trailer, or farm semitrailer and tractor described in subsection (b) may not be operated either part time or incidentally in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce.~~

~~(d) A farm truck described in subsection (b) may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.~~

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) The bureau of motor vehicles shall adopt rules under IC 4-22-2 to identify and define "farm truck", "farm trailer", and "farm semitrailer and tractor", as required by IC 9-13-2-58.

(b) Notwithstanding subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it by IC 9-13-2-58 and by this SECTION under interim written guidelines approved by the

1 **commissioner of motor vehicles.**

2 **(c) This SECTION expires on the earlier of the following:**

3 **(1) The date rules are adopted under IC 9-13-2-58.**

4 **(2) December 31, 2005.**

5 SECTION 14. IC 9-13-2-92 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 92. (a) "Law
7 enforcement officer", except as provided in subsection (b), includes the
8 following:

9 (1) A state police officer.

10 (2) A city, town, or county police officer.

11 (3) A sheriff.

12 (4) A county coroner.

13 (5) A conservation officer.

14 (b) "Law enforcement officer", for purposes of **IC 9-21-3-7.5**,
15 IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the
16 meaning set forth in IC 35-41-1.

17 SECTION 15. IC 9-13-2-99.7 IS ADDED TO THE INDIANA CODE
18 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
19 1, 2004]: **Sec. 99.7. "Medical, firefighting, or law enforcement
20 emergency", for purposes of IC 9-21-3, has the meaning set forth
21 in IC 9-21-3-7.5.**

22 SECTION 16. IC 9-13-2-111.5 IS ADDED TO THE INDIANA
23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2004]: **Sec. 111.5. "Nongovernmental entity", for purposes
25 of IC 9-21-3, has the meaning set forth in IC 9-21-3-7.5.**

26 SECTION 17. IC 9-13-2-117.3 IS ADDED TO THE INDIANA
27 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2004]: **Sec. 117.3. "OPED", for purposes of IC 9-21-3, has
29 the meaning set forth in IC 9-21-3-7.5.**

30 SECTION 18. IC 9-13-2-128 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 128. (a) **Except as
32 provided in subsection (b)**, "political subdivision" means a county, a
33 township, a city, a town, a public school corporation, or any other
34 subdivision of the state recognized in any law, including any special
35 taxing district or entity and any public improvement district authority or
36 entity authorized to levy taxes or assessments.

37 **(b) "Political subdivision", for purposes of IC 9-21-3-7.5, means
38 the following:**

39 **(1) A unit.**

40 **(2) A township.**

41 **(3) A school corporation (as defined in IC 36-1-2-17).**

42 **(4) A local hospital authority (as defined in IC 5-1-4-3).**

43 **(5) A local airport authority (as defined in IC 8-22-3-1).**

44 **(6) A public transportation corporation established under
45 IC 36-9-4-10.**

46 SECTION 19. IC 9-13-2-144.2 IS ADDED TO THE INDIANA
47 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
48 JULY 1, 2004]: **Sec. 144.2. "Public safety officer", for purposes of**

1 **IC 9-21-3, has the meaning set forth in IC 9-21-3-7.5.**

2 SECTION 20. IC 9-13-2-192 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 192. "Unit", for
4 purposes of **section 128 of this chapter and IC 9-21-18**, has the
5 meaning set forth in IC 9-21-18-3.

6 SECTION 21. IC 9-21-3-7.5 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2004]: **Sec. 7.5. (a) As used in this section, "medical,**
9 **firefighting, or law enforcement emergency" means the following:**

10 (1) **A medical condition that requires immediate medical**
11 **attention.**

12 (2) **The occurrence of an event or the expected occurrence of**
13 **an event that presumably requires immediate firefighting,**
14 **medical, or law enforcement attention.**

15 (3) **The commission or the alleged commission of a criminal**
16 **act that requires immediate intervention or investigation by**
17 **a law enforcement officer.**

18 (b) **As used in this section, "nongovernmental entity" means a**
19 **person or legal entity that is not:**

20 (1) **the state; or**

21 (2) **a political subdivision.**

22 (c) **As used in this section, "OPED" means an optical**
23 **preemption emitter device that:**

24 (1) **emits a visible or nonvisible light source or an electronic**
25 **signal; and**

26 (2) **is intended to be used to alter the movement of traffic by**
27 **changing the sequence or interval on a traffic control signal.**

28 (d) **As used in this section, "public safety officer" means a:**

29 (1) **law enforcement officer;**

30 (2) **certified paramedic;**

31 (3) **certified emergency medical technician;**

32 (4) **certified medical service driver;**

33 (5) **certified medical service first responder;**

34 (6) **member of a fire department (as defined in IC 36-8-1-8);**

35 **or**

36 (7) **volunteer firefighter (as defined in IC 36-8-12-2).**

37 (e) **An individual may not knowingly or intentionally use an**
38 **OPED to change the light sequence or interval of a traffic control**
39 **signal, unless the individual is:**

40 (1) **a public safety officer who is:**

41 (A) **a passenger in or operating an authorized emergency**
42 **vehicle; and**

43 (B) **responding and in direct route to a medical, firefighting,**
44 **or law enforcement emergency;**

45 (2) **an authorized traffic control technician who is:**

46 (A) **installing a preemption device; or**

47 (B) **testing or repairing a malfunctioning preemption device;**

or

(3) an employee of a public transportation corporation who is operating:

- (A) an official public transportation motor vehicle; and
- (B) on a scheduled route.

(f) A person may not knowingly or intentionally sell or offer for sale an OPED to a nongovernmental entity.

SECTION 22. IC 9-21-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) A person who violates section 7, 8, 9, or 10 of this chapter commits a Class C infraction.

(b) A person that knowingly or intentionally violates section 7.5(e) or 7.5(f) of this chapter commits a Class A misdemeanor.

SECTION 23. [EFFECTIVE JULY 1, 2004] IC 9-21-3-7.5, as added by this act, applies only to offenses committed after June 30, 2004.

SECTION 24. IC 9-22-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) An individual, a firm, a limited liability company, or a corporation that performs labor, furnishes materials or storage, or does repair work on a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of the person who owns the motor vehicle has a lien on the vehicle to the reasonable value of the charges for the labor, materials, storage, or repairs.

(b) An individual, a firm, a partnership, a limited liability company, or a corporation that provides towing services for a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of:

(1) the person who owns the motor vehicle, trailer, semitrailer, or recreational vehicle; or

(2) an individual, a firm, a partnership, a limited liability company, or a corporation on whose property an abandoned vehicle, trailer, semitrailer, or recreational vehicle is located;

has a lien on the vehicle to the reasonable value of the charges for the towing services and other related costs. An individual, a firm, a partnership, a limited liability company, or a corporation that obtains a lien for an abandoned vehicle under subdivision (2) must comply with the requirements of IC 9-22-1-16, IC 9-22-1-17, and IC 9-22-1-19.

(c) If:

- (1) the charges made under subsection (a) or (b) are not paid; and
- (2) the motor vehicle, trailer, semitrailer, or recreational vehicle is not claimed;

within thirty (30) days from the date on which the motor vehicle was left in or came into the possession of the individual, firm, limited liability company, or corporation for repairs, storage, towing, or the furnishing of materials, the individual, firm, limited liability company, or corporation may advertise the vehicle for sale. The vehicle may not be sold before fifteen (15) days after the date the advertisement required by subsection ~~(c)~~ (d) has been placed or after notice required by

subsection ~~(d)~~ (e) has been sent, whichever is later.

~~(c)~~ (d) Before a vehicle may be sold under subsection ~~(b)~~; (c), an advertisement must be placed in a newspaper of general circulation printed in the English language in the city or town in which the lienholder's place of business is located. The advertisement must contain at least the following information:

(1) A description of the vehicle, including make, type, and manufacturer's identification number.

(2) The amount of the unpaid charges.

(3) The time, place, and date of the sale.

~~(d)~~ (e) In addition to the advertisement required under subsection ~~(c)~~; (d), the person who holds the mechanic's lien must:

(1) notify the person who owns the motor vehicle and any other person who holds a lien of record at the person's last known address by certified mail, return receipt requested; or

(2) if the motor vehicle is an abandoned motor vehicle, provide notice as required under subdivision (1) if the location of the owner of the motor vehicle or a lienholder of record is determined by the bureau in a search under IC 9-22-1-20;

that the vehicle will be sold at public auction on a specified date to satisfy the lien imposed by this section.

~~(e)~~ (f) A person who holds a lien of record on a vehicle subject to sale under this section may pay the storage, repair, **towing**, or service charges due. If the person who holds the lien of record elects to pay the charges due, the person is entitled to possession of the vehicle and becomes the holder of the mechanic's lien imposed by this section.

~~(f)~~ (g) If the person who owns a vehicle subject to sale under this section does not claim the vehicle and satisfy the lien on the vehicle, the vehicle may be sold at public auction to the highest and best bidder for cash. A person who holds a mechanic's lien under this section may purchase a motor vehicle subject to sale under this section.

~~(g)~~ (h) A person who holds a mechanic's lien under this section may deduct and retain the amount of the lien and the cost of the advertisement required under subsection ~~(c)~~ (d) from the purchase price received for a motor vehicle sold under this section. After deducting from the purchase price the amount of the lien and the cost of the advertisement, the person shall pay the surplus of the purchase price to the person who owns the motor vehicle if the person's address or whereabouts is known. If the address or whereabouts of the person who owns the vehicle is not known, the surplus of the purchase price shall be paid over to the clerk of the circuit court of the county in which the person who holds the mechanic's lien has a place of business for the use and benefit of the person who owns the vehicle.

~~(h)~~ (i) A person who holds a mechanic's lien under this section shall execute and deliver to the purchaser of a vehicle under this section a sales certificate in the form designated by the bureau, setting forth the following information:

(1) The facts of the sale.

(2) The vehicle identification number.

(3) The certificate of title if available.

(4) A certificate from the newspaper showing that the advertisement was made as required under subsection ~~(c)~~ (d). Whenever the bureau receives from the purchaser an application for certificate of title accompanied by these items, the bureau shall issue a certificate of title for the vehicle under IC 9-17.

SECTION 25. IC 32-33-10-5, AS ADDED BY P.L.2-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. A person engaged in:

(1) **towing**, repairing, storing, servicing, or furnishing supplies or accessories for motor vehicles, airplanes, construction machinery and equipment, and farm machinery; or

(2) maintaining a motor vehicle garage, an airport or repair shop for airplanes, or a repair shop or servicing facilities for construction machinery and equipment and farm machinery;

has a lien on any motor vehicle or airplane or any unit of construction machinery and equipment or farm machinery **towed**, stored, repaired, serviced, or maintained for the person's reasonable charges for the **towing**, repair work, storage, or service, including reasonable charges for labor, for the use of tools, machinery, and equipment, and for all accessories, materials, gasoline, oils, lubricants, and other supplies furnished in connection with the **towing**, repair, storage, servicing, or maintenance of the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery.

SECTION 26. IC 32-33-10-6, AS ADDED BY P.L.2-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A person seeking to acquire a lien upon a motor vehicle, an airplane, a unit of construction machinery and equipment, or farm machinery, whether the claim to be secured by the lien is then due or not, must file in the recorder's office of the county where:

(1) the **towing**, repair, service, or maintenance work was performed; or

(2) the storage, supplies, or accessories were furnished;

a notice in writing of the intention to hold the lien upon the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery for the amount of the person's claim.

(b) A notice filed under subsection (a) must specifically state the amount claimed and give a substantial description of the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery upon which the lien is asserted.

(c) Any description in a notice of intention to hold a lien filed under subsection (a) is sufficient if by the description the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery can be identified.

(d) A notice under subsection (a) must be filed in the recorder's office not later than sixty (60) days after the:

(1) performance of the **towing or** work; or ~~the~~

(2) furnishing of the storage, supplies, accessories, or materials.

- 1 **SECTION 27. An emergency is declared for this act.**
(Reference is to EHB 1254 as printed February 20, 2004.)

Conference Committee Report
on
Engrossed House Bill 1254

Signed by:

Representative Robertson
Chairperson

Senator Merritt

Representative Burton

Senator Young R

House Conferees

Senate Conferees